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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,153	07/23/2003	Gilles Pauly	C 2707 COGG	7987

23657 7590 11/03/2004

COGNIS CORPORATION  
PATENT DEPARTMENT  
300 BROOKSIDE AVENUE  
AMBLER, PA 19002

EXAMINER

MONDESI, ROBERT B

ART UNIT PAPER NUMBER

1653

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/625,153	PAULY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert B Mondesi	1653	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>February 02, 2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

The current application filed on June 23, 2003 claims priority to foreign application, EPO 02291883.3 filed on June 25, 2002. A certified translation of foreign document EPO 02291883.3 has not been provided.

### ***Information Disclosure Statement***

The IDS filed February 20, 2004 has been received and is signed and considered, a copy of the PTO 1449 is attached to the following document.

### ***Specification***

The disclosure is objected to because of the following informalities:

The use of the trademark EUSOLEX (page 6, line 23), UVASORB (page 5, line 19) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-4** are rejected under 35 U.S.C. 102(b) as being anticipated by WO 02/14499.

WO 02/14499 discloses a composition comprising a compound which modulates tight junctions, occludin and claudins through the protein ZO-1 and an antioxidant (page 1, lines 15-41; page 9 lines 15-42; page 10, lines 5-25; page 12; lines 37-42; entire page 13; page 26, lines 17-42; page 34, lines 26-43). WO 02/14499 also teaches a method of treatment for the improvement of epidermal barrier function comprising topically applying a preparation containing at least one substrate, which modulates the activity of occludin or claudins through the protein ZO-1. (page 41, lines 36-43; page 42, lines 5-14; page 47, line 14-27; page 51 line 37 ; page 52, lines 37-39; page ; page 53, line 12 ; example 2, page 58 lines 26-32). Thus WO 02/14499 teaches all the elements of **claims 1-4** and these claims are anticipated under 35 USC 102(b).

**Claims 1-4** are rejected under 35 U.S.C. 102(e) as being anticipated by Held et al. United States Patent Application Publication US 2003/0148264.

Held et al. disclose a composition comprising a compound, which modulates tight junctions and occludin through the protein ZO-1, ZO-2, ZO-3 and an antioxidant (Section 0175, 0347, 0638, 0646). Held et al. also teach a method of treatment for the improvement of epidermal barrier function comprising topically applying a preparation

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containing at least one substrate, which modulates the activity of occludin through the protein ZO-1, ZO-2 and ZO-3 (Section 0175, 0347, 0638, 0646, 0711, 0717, page 59, example 14). Thus Held et al. teach all the elements of **claims 1-4** and these claims are anticipated under 35 USC 102(e).


### **Conclusion**

No claims are allowed.

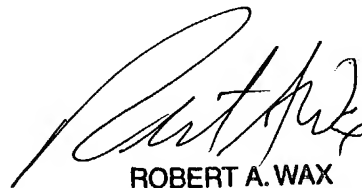
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B Mondesi whose telephone number is 571-272-0956. The examiner can normally be reached on 9am-5pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert B Mondesi  
Patent Examiner  
Group 1653

10-26-04

  
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